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SUBJECT: LAWYERS' REVOLT - RUSSIAN PUBLIC CHAMBER CONDEMNS
AMENDMENT TO MEDIA LAW

Classified By: CDA Daniel A Russell. Reason: 1.4 (d).

Summary

¶1. (C) Opposition to changes in Russia's media law that would allow the authorities to close media outlets accused of libel without a court hearing highlights fractures within the elite. Yesterday, a Public Chamber working group held hearings and issued a finding that condemned the draft law and called for its withdrawal. Coupled with recent public opposition to proposed limits on lawyers' rights and an increasingly visible role for the Public Chamber in shaping legislation, these developments could indicate a bid by prominent lawyers and other technical experts to ride Medvedev's coattails to a position of greater influence. Conversations with one of the more prominent and vocal advocates, Pavel Astakhov, suggest that this segment of the elite has ambitious plans at odds with the bureaucratic stalwarts within the Duma and the government. Their success in blocking this legislation, which was passed by an overwhelming majority in its first reading, may provide an indication of their ability to push the system. End Summary.

The Draft Laws

¶2. (SBU) The amendment to the 1991 Law on the Media, promulgated by United Russia delegate and former "Nashi" pro-Kremlin youth group press spokesman Robert Shlegel, sought to add "apparently libelous information denigrating a person and blackening a person's reputation" to the list of offenses requiring the authorities to close a media outlet. (Currently, the ban holds only for the publication of state secrets, public appeals to terrorist acts, and other extremist materials.) A closer reading of the draft law shows that the authorities could close a media outlet if it receives two warnings from the state media oversight service (Rossvyazokhrankultury), using a court suspension of activity. How this legislation would be implemented remains unclear, suggesting an opportunity for politicized attacks against particular media outlets.

¶3. (SBU) On April 25, the Duma passed the bill on the first of three readings by a vote of 399-1. The timing of the vote, on the heels the tabloid Moskovskiy Korrespondent's published report about Putin's putative marriage plans to gymnast-turned-Duma deputy Alina Kabayeva and the authorities' sharp reaction (including Putin's gutter talk in Italy describing reporters "with their snotty noses and erotic fantasies" as prowling into others' lives), may have led to such overwhelming support from the delegates.

Opposition from Human Rights Advocates

¶4. (C) The near unanimous parliamentary support for the draft amendment caught many in Moscow off guard and generated considerable criticism from press advocates and human rights

advocates. Typical of the responses, Tatyana Lokshina at Human Rights Watch told us that she did not see the legislation as just a reaction to the Putin article, but rather as part of a larger effort to continue limiting avenues for freedom of expression. According to her, the very proposal of such a change is a problem and could lead to more self-censorship by the media.

¶ 15. (C) Human Rights Ombudsman Lukin's Executive Director Natalya Mirza told us that Lukin was aware of the law, but had no legal authority to interfere in the legislative process. That said, Lukin was speaking to the Presidential Administration and key members of the Duma "off the record," Mirza said. William Smirnov, of the Presidential Council for Human Rights, told us that the Council was not involved, but that he was well aware of the Public Chamber's efforts, and was optimistic they would succeed in derailing the law.

"Legal Pragmatists" Also Oppose

¶ 16. (SBU) Perhaps more surprising has been the reaction by what could be considered the "legal pragmatists" within United Russia and the ruling elite - supporters of the regime, usually with a legal education, who back Putin's vision for a modernized Russia, but advocate more careful adherence to the constitution. Shortly after the passage of the law, the "4 November" club within United Russia, headed by Committee for Constitutional Legislation and State-building Chairman Vladimir Pligin and Ekspert magazine editor-in-chief Valeriy Fadeyev, condemned the amendment as potentially "harboring a threat of unsubstantiated and

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arbitrary actions against mass media." In particular, the club members were concerned that an oversight body, not a court, could issue warnings to a media organ on its own assessment of "libel." Separately, Just Russia Deputy Aleksandr Babakov took on board our criticism of the draft and predicted that significant, further discussion would take place before a second reading.

¶ 17. (C) Pavel Astakhov - noted lawyer, Public Chamber member, novelist, and leader of the "For Putin" movement - has been one of the more vocal critics of the amendment, perhaps a reflection of his experience with a libel case against him and his publisher for his book "Raider," brought by the Moscow MVD Investigative Division against alleged information demeaning the honor and dignity of its officers. He told us that the draft amendment was unconstitutional and violated Russia's commitments to the Council of Europe; if passed, it was only a matter of time before it was struck down. While the merits of the arguments against the amendment were sound, Astakhov declined to predict whether the draft law could be significantly amended, given the obedience of the Duma deputies in lining up behind it (with only one, Boris Reznik, the Deputy Chairman of the Duma Committee on Information Policy, voting against).

¶ 18. (C) Astakhov chalked up the ease in passage to the "nervousness" factor surrounding Putin-Kabayeva scandal; the desire of each Duma deputy to limit the possibility of the press pointing its microscope on his or her activities; as well as the paucity of trained lawyers in the legislature. (To prove his point, he noted the crooner/crime figure Iosif Kobzon, who still smarts from "unwelcome" press reports that exposed the more unsavory aspects of his life and his failure to "get" the journalists who published them, introduces legislation every session to ease the process of punishing libel.) Had there been more lawyers in the Duma, Astakhov argued, the clearly unconstitutional law would not have passed its first reading.

Public Chamber Condemns Legislation

¶ 9. (SBU) On May 13, a Public Chamber committee held hearings on the draft amendment which resulted in an unambiguous rejection of the proposed law and a call for it to be rescinded. All of the members of the committee save one - Nashi member Irina Pleshcheva - voted against the amendment after hearing critical testimony from Astakhov, Secretary of the Union of Journalists Mikhail Fedotov, journalist and Medvedev interviewer Nikolay Svanidze, and others. Astakhov criticized the law as being in violation of international law, violating the rights of journalists, and opening the door to extra-judicial actions for political ends. Fedotov argued that the amendment was unnecessary since Russian law recognizes defamation as a crime and establishes appropriate punishments. He further argued that the proposed changes to the law would require media organizations to prove their innocence in court - contradicting the constitutionally-enshrined presumption of innocence.

Svanidze, who also chairs the Public Chamber's Commission for Inter-Ethnic Relations and Freedom of Conscience, said that the spirit of the law was offensive to journalists, implying a diminished role for civil society and public opinion.

10. (SBU) The Public Chamber also took a strong stand against a law, submitted by Putin to the Duma May 7, that would give the Federal Registration Service the powers to appeal in court the lawyers' chamber's refusal to deprive a lawyer of their status. According to press reports, the Chamber issued a special finding against the law, noting that it violated international standards for lawyers' activities, violated the principles of independence and self-regulation for the profession, and condemned the legislation as only serving to strengthen state control over lawyers. Astakhov had been beating his head against the wall on this issue, advocating for the profession to be able to manage its own standards and cadres - as in other countries - and pointed to the administration's unsuccessful attempts to have former Yukos head Mikhail Khodorkovskiy's lawyer disbarred as evidence of the potential risks of this new legislation.

Medvedev, Legal Nihilism, and the Public Chamber

¶ 11. (C) In the coming days, the Duma's reaction to the Public Chamber's clear rejection of the legislation could provide insight into President Medvedev's commitment to fighting "legal nihilism." Astakhov has been working behind the scenes with Medvedev for the past year or so on a program to convince Russians that they have legal rights and to inform the citizenry of the best ways to defend them. As part of

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that program, they have introduced a new TV program to better explain the legal system (admittedly on NTV-Plus, with only a tiny viewership) and have plans to add radio programming and the publication of cheap books on particular legal issues. Already, Astakhov said they have had success with a call-in program of free legal advice, in which demand of more than 350 calls per day exceeds the capacity of the current program.

¶ 12. (C) Astakhov also said that Medvedev wants to have the Public Chamber play a more proactive role, ultimately having the Chamber provide an expert opinion for each piece of legislation. Astakhov further reported that members of the Public Chamber have recently been afforded the right to free access to the Duma premises and to be heard at committee hearings. Soon, he said, members would receive the right to have their opinions heard during plenary sessions - a right they currently do not enjoy.

Comment

¶ 13. (C) While we don't want to read too much into the public debate about the draft amendment, the case provides the opportunity for Russia's "legal eagles" - bolstered by the

presence of one of their own in the Kremlin - to check the more politicized tendencies of the ruling elite. In part because they themselves are close to the tandem - Astakhov's "Za Putina" movement rallied Russians to support the Putin course - their voices are likely to have more resonance than those of the human rights community here. There is no guarantee that the findings by the Public Chamber on the media law or the lawyer oversight amendment will have any impact on the Duma's vote. But, we will be watching with interest to see how this particular interest group promotes its agenda in the coming months.

Bio Info

¶14. (C) Pavel Alekseyevich Astakhov studied law at the University of Pittsburgh in the early 1990s - an experience that he described as "difficult" but rewarding - and received a Masters in Law. His experiences there have apparently had a positive impact, as he described the U.S. system of checks and balances as the best in the world. Judging by the plaques on his wall, he has interests in karate and is an English speaker. There are limits to his pro-Western approach: he is writing a book, due to come out this summer, called "Spy" which features on the cover the Lubyanka, with the plinth of KGB founder Dzerzhinskiy's statue in front, but topped by the Queen of England. He has a hobby of collecting magnifying glasses, which he showed to us as we were gathering to leave, that represent to him the essence of the legal profession.

RUSSELL